

AMENDED IN SENATE JUNE 21, 2010

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2503

Introduced by Assembly Member John A. Pérez

February 19, 2010

An act to repeal Section 6429.5 of, and to repeal and add Article 2 (commencing with Section 6420) of Chapter 5 of Part 1 of Division 6 of, the Fish and Game Code, and to add Division 37 (commencing with Section 71500) to the Public Resources Code, relating to ocean resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2503, as amended, John A. Pérez. Ocean resources: artificial reefs.

Existing law establishes a California Artificial Reef Program, administered by the Department of Fish and Game, to include the placement of artificial reefs, as defined, in state waters and a prescribed study of existing successful reefs and new reefs to determine design criteria.

This bill would repeal those provisions and, instead, would enact the California Marine Life Legacy Act to establish a program of artificial reef research and development, administered by the department. The act would authorize the department to *conditionally* approve the conversion of an offshore oil platform or production facility into an

artificial reef, if specified criteria are satisfied, including a finding that the alternative of converting the decommissioned offshore oil platform or production facility into an artificial reef provides a net *environmental benefit to the environment and substantial cost savings* compared to the alternative of removing the facilities. The act would require the ~~department~~ *Ocean Protection Council*, for purposes of determining whether such a conversion provides a net environmental benefit, to determine criteria for biological evaluation of an oil platform or production facility for use as an artificial reef ~~and, to consult with and~~ *advise the department, the California Coastal Commission, the State Lands Commission, the California Ocean Service Trust and other responsible agencies as to those criteria, and would require that the conversion comply with the California Environmental Quality Act.* The act would require the ~~department~~ *State Lands Commission* to determine the cost savings of a conversion, and would require the owner or operator, upon conditional approval for conversion, to apportion a percentage of the cost savings funds in accordance with a prescribed schedule to the California Endowment for Marine Preservation ~~and, the county immediately adjacent to the location of the facility, and the General Fund.~~ The act would authorize the department to take title to a decommissioned offshore oil platform or production facility in open coastal waters if prescribed requirements are met. ~~The act, until January 1, 2014, would establish an accelerated platform decommissioning program for the conversion of oil platforms or production facilities into artificial reefs, which would include expedited review and an alternate apportionment schedule.~~

The bill would establish the California Endowment for Marine Preservation, subject to the Nonprofit Public Benefit Corporation Law, in order to create a permanent source of funding for projects *and programs* that will conserve, protect, restore, and enhance the open coastal *and* marine resources of the state. The endowment would be governed by a board of directors, with membership and duties prescribed by the bill.

The bill would require the endowment to coordinate its activities with the Department of Fish and Game, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the State Lands Commission, and appropriate federal agencies. *The bill would require the endowment to allocate 10% of any funds received pursuant to the act to qualified state agencies within 24 months of receipt of the funds.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that the process
2 for evaluating the proposed conversion of decommissioned offshore
3 oil platforms and facilities into artificial reefs take into account
4 ~~the findings and recommendations of the study being coordinated~~
5 ~~by the California Ocean Science Trust, with support from the~~
6 ~~California Ocean Protection Council and others, entitled “Study~~
7 ~~to Provide Information Related to Oil and Gas Platform~~
8 ~~Decommissioning Alternatives in California,” which is due to be~~
9 ~~released in June 2010; the findings and recommendations of the~~
10 ~~June 2010 study produced by the California Ocean Science Trust,~~
11 ~~with support from the Ocean Protection Council and others,~~
12 ~~entitled “Evaluating Alternatives to Decommissioning California’s~~
13 ~~Offshore Oil and Gas Platforms: A Technical Analysis to Inform~~
14 ~~State Policy.”~~

15 SEC. 2. Article 2 (commencing with Section 6420) of Chapter
16 5 of Part 1 of Division 6 of the Fish and Game Code is repealed.

17 SEC. 3. Article 2 (commencing with Section 6420) is added
18 to Chapter 5 of Part 1 of Division 6 of the Fish and Game Code,
19 to read:

20

21 Article 2. California Marine Life Legacy Act

22

23 6420. The Legislature finds and declares all of the following:

24 (a) This act shall be known, and may be cited, as the California
25 Marine Life Legacy Act.

26 (b) California’s extraordinary marine biological diversity is a
27 vital asset to the state and nation. The diversity of species and
28 ecosystems found in the ocean waters off the state is important to
29 public health and well-being, ecological health, and
30 ocean-dependent industries.

31 (c) A program of artificial reef research and development,
32 including reef design, placement, and monitoring, is in the public
33 interest and can best be accomplished under the administration of
34 the department with the cooperation and assistance of the
35 University of California, the California State University, *the State*

1 *Lands Commission, the Ocean Protection Council*, the California
2 Ocean Science Trust, other established, appropriate academic
3 institutions, and other organizations with demonstrated expertise
4 in the field.

5 (d) This state is currently implementing a system of marine
6 protected areas in order to protect habitat and ecosystems, conserve
7 biological diversity, provide a sanctuary for fish and other sea life,
8 enhance recreational and educational opportunities, and provide
9 a reference point against which scientists can measure changes
10 elsewhere in the marine environment, and may help rebuild
11 depleted fisheries.

12 (e) Efforts to enhance marine diversity through the placement
13 of artificial reefs need to be investigated.

14 (f) A state artificial reef research and construction program
15 under the administration of the department is necessary to
16 coordinate ongoing studies and construction of artificial reefs in
17 waters of the state.

18 (g) It is important to provide adequate funding to meet
19 legislatively imposed mandates.

20 6421. For purposes of this article, the following terms have
21 the following meanings:

22 (a) “Artificial reef” means manmade or natural objects
23 intentionally placed or allowed to remain in place in selected areas
24 of the marine environment to ~~duplicate those~~ *create* conditions
25 that induce production of fish and invertebrates on natural reefs
26 and rough bottoms, support additional biomass, enhance
27 biodiversity and that stimulate the growth of kelp or other midwater
28 plant life that creates natural habitat for those species.

29 (b) “*Commission*” means the *State Lands Commission*.

30 ~~(b)~~

31 (c) “Cost savings”—~~are~~ *means* the difference between the
32 estimated cost to the operator or owner of complete removal of an
33 offshore oil platform or production facility and the costs incurred
34 by the operator or owner of converting a platform or facility into
35 an artificial reef.

36 (d) “*Council*” means the *Ocean Protection Council*.

37 ~~(e)~~

38 (e) “Endowment” means the California Endowment for Marine
39 Preservation established in Division 37 (commencing with Section
40 71500) of the Public Resources Code.

1 (f) “Exclusive economic zone (EEZ)” means the zone as
2 measured from the mean high tide line seaward to 200 nautical
3 miles as set forth in the Presidential Proclamation 5030 of March
4 10, 1983, in which the United States proclaimed jurisdiction over
5 the resources of the ocean within 200 miles of the coastline.

6 ~~(d)~~

7 (g) “National Fishing Enhancement Act of 1984” means Title
8 II of Public Law 98-623.

9 ~~(e)~~

10 (h) “Offshore oil platform or production facility” means
11 platforms, piers, and artificial islands located seaward of mean
12 lower low water, used for oil and gas exploration, development,
13 production, processing, or storage.

14 ~~(f)~~

15 (i) “Oil” means any kind of petroleum, liquid hydrocarbons,
16 natural gas, or petroleum products or any fraction or residues
17 therefrom.

18 ~~(g)~~

19 (j) “Open coastal marine resource” means those marine resources
20 that use open coastal waters as their habitat.

21 ~~(h)~~

22 (k) “Open coastal waters” means the area composed of the
23 submerged lands of the state that are below the mean lower low
24 water extending seaward to the boundaries of the Exclusive
25 Economic Zone.

26 ~~(i)~~

27 (l) “Production” means increases in the biomass of a species or
28 number of species.

29 ~~(j)~~

30 (m) “Program” means the California Artificial Reef Program
31 administered pursuant to this article.

32 ~~(k)~~

33 (n) “Reef materials” include only materials allowed under the
34 National Artificial Reef Plan, adopted under the *federal* National
35 Fishing Enhancement Act of 1984 for construction of artificial
36 reefs.

37 ~~(l)~~

38 (o) “State waters” means waters within the seaward boundary
39 of the state as identified in Section 2 of Article III of the California
40 Constitution.

1 6422. The department shall administer the program.

2 6423. The program shall include all of the following elements:

3 (a) The placement of artificial reefs, including, but not limited
4 to, decommissioned offshore oil platforms *and production facilities*
5 allowed to remain in place as ~~artificial reefs~~ in state and federal
6 waters.

7 (b) A study of existing successful reefs and all new reefs placed
8 by the program to determine the design criteria needed to construct
9 artificial reefs capable of increasing marine biomass and
10 biodiversity in state and federal waters.

11 (c) A determination of the requirements for reef siting and
12 placement.

13 (d) Consideration of modification and use of existing marine
14 structures in both state and federal waters as artificial reefs.

15 6424. The amount allocated for the administration of the
16 program in any fiscal year shall not exceed the amount authorized
17 by applicable state and federal policy guidelines.

18 ~~6426.~~

19 6425. The Legislature hereby finds and declares all of the
20 following:

21 (a) There is an existing permitting process for decommissioning
22 of offshore oil platforms or production facilities.

23 ~~(b) Decommissioning of the offshore oil platforms or production~~
24 ~~facilities has already occurred and as part of the permitting process~~
25 ~~there was some consideration given to converting platforms or~~
26 ~~facilities into artificial reefs.~~

27 ~~(c) The operator or owner of offshore oil platforms or production~~
28 ~~facilities could save a considerable sum of money if the~~
29 ~~decommissioned offshore oil platform or production facility is~~
30 ~~allowed by permitting local, state, and federal agencies to remain~~
31 ~~in place and be converted into an artificial reef.~~

32 ~~(d) The savings that result from that conversion should be shared~~
33 ~~with the citizens of this state.~~

34 ~~(e) A mechanism is needed to ensure that if local, state, and~~
35 ~~federal agencies allow the conversion of an offshore oil platform~~
36 ~~or production facility to an artificial reef, the citizens of this state~~
37 ~~would share in the savings and those shared funds would be used~~
38 ~~to benefit the open coastal marine resources that lie offshore of~~
39 ~~this state.~~

1 ~~(f) Offshore oil platforms may function as artificial reefs and~~
2 ~~provide habitat for many species, including threatened and~~
3 ~~endangered species; and fully removing offshore oil platforms or~~
4 ~~production facilities. Owners and operators are currently~~
5 ~~responsible for the full cost of decommissioning and remediating~~
6 ~~those facilities.~~

7 (b) According to the Minerals Management Service of the United
8 States Department of the Interior, the 23 oil and gas platforms in
9 federal waters off the California coast are expected to reach the
10 end of their useful production lifetimes and be decommissioned
11 between 2015 and 2030.

12 (c) The California Ocean Science Trust in its June 2010 study,
13 titled "Evaluating Alternatives for Decommissioning California's
14 Offshore Oil and Gas Platforms: A Technical Analysis to Inform
15 State Policy," analyzed a number of options for decommissioning
16 in addition to full rig removal, but found that the only other feasible
17 option is partial removal and conversion to an artificial reef.

18 (d) The California Ocean Science Trust report and other studies
19 indicate that the partial removal option can result in net
20 environmental benefits and substantial cost savings compared to
21 full removal of an oil platform or production facility.

22 (e) It is in the interest of the state that a portion of the cost
23 savings that result from that conversion should be shared with the
24 citizens of this state to protect and enhance the state's marine
25 resources.

26 (f) A mechanism is needed to ensure that, if local, state, and
27 federal agencies allow the conversion of an offshore oil platform
28 or production facility to an artificial reef, the citizens of this state
29 would share in the savings and those shared funds would be used
30 to benefit the open coastal marine resources of the state.

31 ~~6426.1.~~

32 6425.5. The department shall serve as the primary authority
33 for managing and operating ~~artificial reefs created from~~
34 ~~decommissioned~~ offshore oil platforms or production facilities
35 ~~approved pursuant to this article.~~ The department may obtain
36 funds for the planning, development, maintenance, and operation
37 of those ~~artificial reefs facilities~~ and may accept gifts, subventions,
38 grants, rebates, and subsidies from any lawful source. The
39 department may adopt regulations to implement this article.

~~6427. This article establishes a program through which an owner or operator of an offshore oil platform or production facility may voluntarily choose to create an artificial reef from the offshore oil platform or production facility if the requirements of this article and other applicable legal requirements are met. The department may conditionally approve the conversion of an offshore oil platform or production facility into an artificial reef only if the following criteria are satisfied:~~

6426. (a) The Legislature hereby finds and declares all of the following:

(1) The conversion of offshore oil platforms or production facilities should not be done until there has been a thorough scientific study and evaluation.

(2) The costs of such a study should be borne by the operators of offshore oil platforms or production facilities.

(3) Each offshore oil platform or production facility creates a unique environment because of its location, depth, and other ecological factors.

(4) Because of significant variations, those scientific studies and evaluations should be done for each offshore oil platform or production facility for which an application for the conversion of the oil platform or production facility has been made to the department.

(b) This article establishes a program through which an owner or operator of an offshore oil platform or production facility may voluntarily apply to the department to convert an offshore oil platform or production facility to an artificial reef. In addition to meeting the other requirements of this article, an owner or operator that chooses to apply to convert an offshore oil platform or production facility shall meet application requirements to be designed by the department to receive information needed to facilitate review of the application in a timely manner, including as specified in subdivision (d). In order to facilitate timely review, the department may require the applicant to include either or both of the following in the application:

(1) A plan for converting the offshore oil platform or production facility into an artificial reef, including removal of any portion of the platform or facility as appropriate to maintain navigational safety.

1 (2) A management plan for the artificial reef, including
2 maintenance in a manner consistent with navigational safety,
3 enforcement and monitoring.

4 (c) The information submitted pursuant to paragraphs (1) and
5 (2) of subdivision (b) shall be used by the department for advisory
6 purposes only. Final determinations regarding the conversion and
7 management of the offshore oil platform or production facility
8 shall be made solely by the department based on its independent
9 review and judgment.

10 (d) A proposed project to convert an offshore oil platform or
11 production facility into an artificial reef pursuant to this article
12 is a project as defined in subdivision (c) of Section 21065 of the
13 Public Resources Code and is therefore subject to the California
14 Environmental Quality Act (Division 13 (commencing with Section
15 21000) of the Public Resources Code) and qualifies for the time
16 limits established in Section 21100.2 of the Public Resources Code.

17 6427. The department may conditionally approve the
18 conversion of an offshore oil platform or production facility only
19 if all of the following criteria are satisfied, and in accordance with
20 Sections 6427.2 and 6427.3:

21 (a) The conversion of the offshore oil platform or production
22 facility ~~into an artificial reef~~, and the planning, development,
23 maintenance, and operation of that platform or facility ~~as an~~
24 ~~artificial reef~~, would be consistent with all applicable state, federal,
25 and international laws, including, but not limited to, all of the
26 following:

27 (1) The federal Magnuson-Stevens Fishery Conservation and
28 Management Act (16 U.S.C. Sec. 1801 et seq.).

29 (2) The federal National Fishing Enhancement Act of 1984.

30 (3) The California Coastal Management Program.

31 (4) The Marine Life Management Act of 1998 (Chapter 1052
32 of the Statutes of 1998).

33 (5) The Marine Life Protection Act (Chapter 10.5 (commencing
34 with Section 2850) of Division 3).

35 (6) State and federal water quality laws.

36 (7) Navigational safety laws.

37 (b) The alternative of converting the decommissioned offshore
38 oil platform or production facility ~~into an artificial reef~~ provides
39 a net benefit to the environment compared to the alternative of
40 removing the facilities, ~~as determined pursuant to Section 6428.1.~~

1 ~~(e) The cost savings that would result from the conversion of~~
2 ~~the offshore oil platform or production facility into an artificial~~
3 ~~reef have been determined pursuant to Section 6429.~~

4 ~~(d) The owner or operator of the offshore oil platform or~~
5 ~~production facility provides sufficient funds to the department for~~
6 ~~the department to make the determinations required in this section~~
7 ~~and Section 6427.5, including, but not limited to, all of the~~
8 ~~following:~~

9 ~~(1) An evaluation, including any necessary research, of the~~
10 ~~platform or facility to determine the benefits of the artificial reef~~
11 ~~sites to biotic productivity.~~

12 ~~(2) A determination pursuant to Section 6428.1 whether the, as~~
13 ~~determined pursuant to Section 6428. The determination made~~
14 ~~pursuant to Section 6428 and submitted to the department by the~~
15 ~~council shall constitute the determination of whether the proposed~~
16 ~~conversion provides a net environmental benefit for purposes of~~
17 ~~meeting the requirements of this section.~~

18 ~~(c) The cost savings that would result from the conversion of~~
19 ~~the offshore oil platform or production facility have been~~
20 ~~determined pursuant to Section 6429. The determination made~~
21 ~~pursuant to Section 6429 and submitted to the department by the~~
22 ~~commission shall constitute the determination of cost savings for~~
23 ~~purposes of meeting the requirements of this section.~~

24 ~~(d) The owner or operator of the offshore oil platform or~~
25 ~~production facility provides sufficient funds to the department,~~
26 ~~council, and commission for each agency to carry out all required~~
27 ~~activities pursuant to this article, including, but not limited to, all~~
28 ~~of the following:~~

29 ~~(1) Environmental review of the proposed project pursuant to~~
30 ~~subdivision (d) of Section 6426.~~

31 ~~(2) A determination pursuant to Section 6428 whether the~~
32 ~~conversion of the offshore oil platform or production facility into~~
33 ~~an artificial reef provides a net benefit to the environment compared~~
34 ~~to the alternative of removing the facilities from the environment.~~

35 ~~(3) A determination pursuant to Section 6429 of the cost savings~~
36 ~~of the proposed conversion of the offshore oil platform or~~
37 ~~production facility into an artificial reef.~~

38 ~~(4) Other activities undertaken to meet the requirements of this~~
39 ~~section and Section 6427.5, including the costs of reviewing,~~
40 ~~approving, and permitting the proposed projects, which includes~~

1 the costs of determining whether the project meets the requirements
2 of all applicable laws and regulations and the costs of
3 environmental assessment and review.

4 ~~(5) Overall management of the reef, including enforcement,~~
5 ~~research, and monitoring, and long-term management, operations,~~
6 ~~and maintenance.~~

7 ~~(e) The owner or operator of the oil platform or production~~
8 ~~facility indemnifies the state against any and all liability that may~~
9 ~~result, including defending the state against any claims against the~~
10 ~~department for any actions the department undertakes pursuant to~~
11 ~~this article. In adopting indemnification requirements under this~~
12 ~~article, the department may consider a variety of mechanisms,~~
13 ~~including an agreement to indemnify the state, an insurance policy,~~
14 ~~a cash settlement, or any other mechanism that ensures that the~~
15 ~~state can defend itself against any liability claims against the~~
16 ~~department for any actions the department undertakes pursuant to~~
17 ~~this article and pay any resulting judgments.~~

18 *(5) Overall management of the reef by the department that*
19 *includes, but is not limited to, preparation of a reef management*
20 *plan pursuant to paragraph (2) of subdivision (a) of Section 6427.3,*
21 *enforcement, research and monitoring, long-term management,*
22 *operations, and maintenance.*

23 *(e) The owner or operator of the oil platform or production*
24 *facility indemnifies the state by entering into an agreement that*
25 *meets all the requirements of paragraph (3) of subdivision (a) of*
26 *Section 6427.3.*

27 (f) The owner or operator of the offshore oil platform or
28 production facility applies for, and receives, all required permits
29 and approvals issued by any governmental agency, including, but
30 not limited to, the permit issued by the United States Army Corps
31 of Engineers if the department does not take title to the platform
32 or facility as provided in Section 6427.5 *and a lease issued by the*
33 *commission if the proposed project involves state tidelands and*
34 *submerged lands.*

35 (g) For oil platforms or production facilities located in federal
36 waters all of the following requirements are met:

37 (1) The department and the owner or operator of the platform
38 or facility reach an agreement providing for the department to take
39 title to the platform or facility as provided in Section 6427.5.

1 (2) The department acquires the permit issued by the United
2 States Army Corps of Engineers.

3 (3) The conversion to an artificial reef is approved by the United
4 States Minerals Management Service.

5 ~~6427.1. (a) Upon receipt of conditional approval of the~~
6 ~~conversion of an offshore oil platform or production facility into~~
7 ~~an artificial reef~~

8 6427.1. (a) When the department receives an application to
9 convert an offshore oil platform or oil production facility pursuant
10 to this article, it shall submit a copy of the application to the
11 council and the commission. The submittal of the application shall
12 serve as notice as required by Sections 6428 and 6429.

13 (b) When the department makes a determination that an
14 application for conversion of a decommissioned offshore oil
15 platform or production facility has satisfied all the criteria in this
16 section, it shall immediately notify the California Endowment for
17 Marine Preservation, established pursuant to Division 37
18 (commencing with Section 71500) of the Public Resources Code,
19 of its determination.

20 6427.2. If the department determines that all the criteria for
21 conditional approval specified in Section 6427 have been satisfied,
22 the department shall, prior to granting conditional approval,
23 provide public notice of its determination, provide an opportunity
24 for public comment, and hold a public hearing.

25 6427.3. (a) In addition to the requirements of Section 6427.2,
26 prior to the conditional approval of the conversion of an offshore
27 oil platform or production facility pursuant to Section 6427, the
28 department shall do all of the following:

29 (1) Conduct an environmental review of the project pursuant
30 to Division 13 (commencing with Section 21000) of the Public
31 Resources Code.

32 (2) Prepare a plan to manage the offshore oil platform or
33 production facility after its conversion. The plan shall include
34 measures to manage fishery and marine life resources at and
35 around the reef, which may include a buffer zone in which fishing
36 or removal of marine life is restricted or prohibited.

37 (3) Enter into an indemnification agreement with the owner or
38 operator of the offshore oil platform or production facility that
39 indemnifies the state, to the extent permitted by law, against any
40 and all liability that may result, including, but not limited to, active

1 negligence, and including defending the state against any claims
2 against the department for any actions the department undertakes
3 pursuant to this article. In adopting indemnification requirements
4 for the agreement, the department shall ensure that the state can
5 defend itself against any liability claims against the department
6 for any actions the department undertakes pursuant to this article
7 and pay any resulting judgments. The department shall consult
8 with and, as necessary, use the resources of the office of the
9 Attorney General in preparing and entering into the
10 indemnification agreement.

11 (4) Determine that the conversion would be consistent with all
12 applicable laws identified in subdivision (a) of Section 6427.

13 (5) Make all the findings required in Section 6427. If the
14 department determines the applicant for conversion of an oil
15 platform or production facility has satisfied all the criteria in
16 Section 6427, it shall grant the applicant conditional approval.

17 (b) Upon receipt of conditional approval pursuant to Section
18 6427, the owner or operator of the platform or facility shall
19 apportion and directly transmit an amount equaling 50 percent of
20 the cost savings, as determined by the department pursuant to
21 Section 6429, to the following in the following amounts:

22 (1) ~~Ninety-Eighty-five~~ percent shall be deposited into the
23 California Endowment for Marine Preservation established
24 pursuant to Division 37 (commencing with Section 71500) of the
25 Public Resources Code.

26 (2) ~~Ten-Five~~ percent shall be deposited with the board of
27 supervisors of the county immediately adjacent to the location of
28 the facility prior to its decommissioning. The amount paid to the
29 county shall be managed pursuant to the provisions of paragraph
30 (1) of subdivision (d) of Section 6817 of the Public Resources
31 Code.

32 (3) Ten percent shall be deposited into the General Fund.

33 (b) The department shall not grant final approval of the
34 conversion of an offshore oil platform or production facility into
35 an artificial reef until all requirements of subdivision (a) are met.

36 (c) Moneys deposited pursuant to this section shall be held in
37 trust for the purposes described in this section.

38 6427.5. The department ~~may~~ shall not take title to a
39 decommissioned offshore oil platform or production facility in
40 open coastal waters ~~only~~ if or take responsibility for

1 *implementation of a management plan pursuant to this article until*
2 *decommissioning and conversion of the offshore oil platform or*
3 *production facility have been completed and both of the following*
4 requirements are met:

5 (a) The conversion of the oil platform or production facility has
6 been approved by the department pursuant to Sections 6427 and
7 ~~6427.1.~~ 6427.3.

8 (b) The state is indemnified, as required in subdivision (e) of
9 Section 6427, from any liability that may result from approving
10 the conversion of an offshore oil platform or production facility
11 ~~to an artificial reef~~ or any liability that may result from the
12 ownership of the ~~reef converted platform or facility~~.

13 6428. The Legislature hereby finds and declares all of the
14 following:

15 (a) The conversion of offshore oil platforms or production
16 facilities should not be done until there has been a thorough
17 scientific study and evaluation.

18 (b) The costs of such a study should be borne by the operators
19 of offshore oil platforms or production facilities.

20 (c) Each offshore oil platform or production facility creates a
21 unique environment because of its location, depth, and other
22 ecological factors.

23 (d) Because of significant variations, those scientific studies
24 and evaluations should be done for each offshore oil platform or
25 production facility for which an application for the use of the oil
26 platform or production facility as an artificial reef has been made
27 to the department.

28 ~~6428.1. (a) The department shall determine whether~~

29 6428. (a) *Prior to the conditional approval of the conversion*
30 *of an oil platform or production facility pursuant to Section 6427,*
31 *the council shall determine whether* the conversion of a specified
32 oil platform or production facility for use as an artificial reef
33 provides a net benefit to the environment compared to the
34 alternative of removing the oil platform or production facility.

35 (b) In making the determination pursuant to subdivision (a), the
36 ~~department~~ council shall take into account the contribution of the
37 proposed artificial reef to protection and productivity of fish and
38 other marine life, any adverse impacts to biological resources,
39 water quality, air quality, or any other offshore or onshore
40 environmental impacts from the full removal of the facility that

1 would be avoided by conversion to an artificial reef, and any
2 adverse impacts to biological resources, water quality, air quality,
3 or any other offshore or onshore environmental impacts from the
4 decommissioning and conversion of the facility into an artificial
5 reef. *Benefits resulting from the contribution of cost savings to the*
6 *endowment shall not be considered in the determination of net*
7 *environmental benefit.*

8 (c) (1) ~~The department~~ *council* shall determine criteria for
9 biological evaluation of an oil platform or production facility for
10 use as an artificial reef and ~~shall consult with and advise the~~
11 ~~California Coastal Commission, the State Lands Commission, and~~
12 ~~other responsible agencies as to that criteria~~ *artificial reef*. The
13 criteria shall include, but are not limited to, the depth of the
14 artificial reef in relation to its value as habitat and the location of
15 the artificial reef in relation to other reefs, both natural and
16 artificial. The criteria shall not include any consideration of the
17 funds to be generated by the conversion to an artificial reef. *In*
18 *determining the criteria for biological evaluation, the council shall*
19 *consult with appropriate entities, including, but not limited to, the*
20 *department, the commission, the California Coastal Commission,*
21 *and the California Ocean Science Trust.*

22 (2) ~~The department shall commence developing the criteria~~
23 ~~required by this subdivision upon receiving an application for the~~
24 ~~use of the oil platform or production facility as an artificial reef.~~
25 ~~The department's determination of that criteria is a necessary part~~
26 ~~of any consideration of an application and the costs of determining~~
27 ~~that criteria shall be borne by the applicant or applicants, as~~
28 ~~required in subdivision (d) of Section 6427.~~

29 (2) *The council shall commence developing the criteria required*
30 *by this subdivision upon receiving a copy of the application*
31 *pursuant to subdivision (a) of Section 6427.1. The council's*
32 *determination of those criteria is a necessary part of any*
33 *consideration of an application to convert an offshore oil platform*
34 *or production facility pursuant to this article, and the costs of*
35 *determining those criteria shall be borne by the applicant or*
36 *applicants, as required in subdivision (d) of Section 6427.*

37 (d) *The council shall take all feasible steps to complete its*
38 *determination in a timely manner that accommodates the time*
39 *limits for environmental review required pursuant to Section 6427.*

1 6429. (a) Prior to the *conditional* approval of a conversion of
2 an offshore oil platform or production facility ~~into an artificial reef~~
3 *commission* pursuant to Section 6427, the department shall
4 determine, or cause to be determined, the cost savings that will
5 result from the conversion.

6 (b) ~~The department~~ *commission* shall ensure that any cost
7 savings are accurately and reasonably calculated. ~~The department~~
8 *commission* may contract or enter into a memorandum of
9 understanding with any other appropriate governmental agency or
10 other party, including an independent expert, to ensure that cost
11 savings are accurately and reasonably calculated.

12 (c) ~~The department~~ *commission* shall consider any estimates of
13 cost savings made by any governmental agency, including, but not
14 limited to, the Internal Revenue Service, the Franchise Tax Board,
15 ~~the Minerals Management Service of the United States Department~~
16 ~~of the Interior, and the State Lands Commission. If the department~~
17 ~~disagrees with the estimate made by any other agency, the~~
18 ~~department shall prepare a public report that explains any~~
19 ~~discrepancies and differences between those estimates and provides~~
20 ~~the basis for the department's finding that other estimates are less~~
21 ~~reliable and the department's use of a different cost savings~~
22 ~~estimate. and the Minerals Management Service of the United~~
23 ~~States Department of the Interior. The commission shall include~~
24 ~~in its determination a written explanation, which shall be available~~
25 ~~to the public, of the differences, and the reasons for the differences,~~
26 ~~between the commission's determination of cost savings and any~~
27 ~~other estimates of cost savings the commission considered.~~

28 (d) *The commission shall commence its determination of cost*
29 *savings as required in subdivision (a) upon receiving a copy of*
30 *the application pursuant to subdivision (a) of Section 6427.1. The*
31 *commission's determination of the cost savings is a necessary part*
32 *of any consideration of an application to convert an oil platform*
33 *or oil production facility pursuant to this article, and the costs of*
34 *making that determination shall be borne by the applicant or*
35 *applicants, as required in subdivision (d) of Section 6427.*

36 (e) *The commission shall take all feasible steps to complete its*
37 *determination in a timely manner that accommodates the time*
38 *limits for the department whether to grant conditional approval*
39 *pursuant to Section 6427.*

1 6429.1. The oil platform or production facility owner or
2 operator at any time prior to transfer of title to the state, at its sole
3 discretion, shall have the right to cease participation in the artificial
4 reef conversion and pursue full decommissioning, subject to
5 reimbursement to the state of the reasonable costs and expenses
6 incurred by the state.

7 6429.2. (a) Nothing in this article is intended, and it shall not
8 be construed, to limit or affect the authority or duties of any state
9 or local agency, including, but not limited to, the ~~State Lands~~
10 ~~Commission council, the commission,~~ and the California Coastal
11 Commission.

12 (b) Nothing in this article shall be construed to do any of the
13 following:

14 (1) Relieve the prior owner or operator of an offshore oil
15 platform or production facility from any continuing liability under
16 any of the following if the liability is associated with seepage or
17 release of oil from an offshore oil platform or production facility
18 that was decommissioned pursuant to an order of, or any action
19 taken by, and in accordance with, any applicable rule or regulation
20 of, any federal or state agency:

21 (A) Any state statute or regulation regarding liability for the
22 spilling of oil.

23 (B) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701
24 et seq.).

25 (C) Any other provision of law.

26 (2) Establish any new liability on the part of the state.

27 (3) Require any agency with jurisdiction to approve the artificial
28 reef conversion, in whole or in part, of an offshore oil platform or
29 production facility.

30 (4) Promote, encourage, or facilitate offshore oil exploration,
31 development, and production within California's open coastal
32 waters.

33 (5) Require the United States Department of the Interior's
34 Minerals Management Service or the State Lands Commission to
35 modify, amend, or alter an existing oil and gas lease to approve
36 conversion of an offshore oil platform or production facility.

37 (6) Alter any existing law or applicable rule or regulation of
38 any federal or state agency that establishes liability for damages
39 arising with respect to artificial reefs or reef materials, including,
40 but not limited to, components of decommissioned oil facilities.

1 (7) Alter any existing law or policy that protects natural reefs.

2 (8) Approve any particular method of abandonment.

3 (c) Any conversion of an offshore oil platform or production
4 facility for use as an artificial reef shall not be used or counted as
5 mitigation for any environmental impacts or natural resource
6 damages.

7 ~~6429.5.—(a) The Accelerated Platform Decommissioning~~
8 ~~Program is hereby established as an expedited program for meeting~~
9 ~~the requirements for approval of the conversion of an offshore oil~~
10 ~~platform or production facility into an artificial reef pursuant to~~
11 ~~this article. For purposes of this section, “accelerated program”~~
12 ~~means the Accelerated Platform Decommissioning Program as~~
13 ~~established by this section.~~

14 ~~(b) (1) A proposed project to convert an offshore oil platform~~
15 ~~or production facility into an artificial reef pursuant to the~~
16 ~~accelerated program is a project as defined in subdivision (c) of~~
17 ~~Section 21065 of the Public Resources Code and is therefore~~
18 ~~subject to the California Environmental Quality Act (Division 13~~
19 ~~(commencing with Section 21000) of the Public Resources Code)~~
20 ~~and qualifies for expedited review pursuant to Section 21100.2 of~~
21 ~~the Public Resources Code.~~

22 ~~(2) Upon receipt of an application for expedited review pursuant~~
23 ~~to this section, the department shall review the application and~~
24 ~~make a determination within the time periods set forth in paragraph~~
25 ~~(1) of subdivision (a) of Section 21100.2 of the Public Resources~~
26 ~~Code whether the proposed project meets all of the requirements~~
27 ~~of this section and this article for conversion into an artificial reef.~~

28 ~~(3) Prior to making a final determination as provided in~~
29 ~~paragraph (2), the department shall do all of the following:~~

30 ~~(A) Consult with all responsible agencies and trustee agencies,~~
31 ~~as defined in Sections 21069 and 21070 of the Public Resources~~
32 ~~Code.~~

33 ~~(B) Provide opportunity for public comment and hold a public~~
34 ~~hearing.~~

35 ~~(C) Determine the cost savings as provided in Section 6429.~~

36 ~~(e) The owner or operator of an offshore oil platform or~~
37 ~~production facility may apply to enroll the facility in the accelerated~~
38 ~~program. In addition to meeting the other requirements of this~~
39 ~~article, the owner or operator of an offshore oil platform that~~
40 ~~chooses to apply as part of the accelerated program shall meet~~

1 application requirements to be designed by the department to
2 receive information needed to facilitate review of the application
3 within an accelerated timeline. In order to facilitate an accelerated
4 review, the department may require the applicant to include any
5 or all of the following in the application:

6 (1) ~~A reefing plan for converting the oil platform or production~~
7 ~~facility into an artificial reef, including removal of any portion of~~
8 ~~the platform or facility as appropriate to maintain navigational~~
9 ~~safety.~~

10 (2) ~~A management plan for the artificial reef, including~~
11 ~~maintenance in a manner consistent with navigational safety and~~
12 ~~enforcement and monitoring, and, if applicable, a buffer zone in~~
13 ~~which fishing or removal of marine life may be limited or~~
14 ~~prohibited.~~

15 (3) ~~A proposed determination of the net environmental benefit~~
16 ~~of conversion of the facility into an artificial reef, compared to the~~
17 ~~alternative of removing the facility. The proposed determination~~
18 ~~of net environmental benefit shall be based on criteria established~~
19 ~~by the department pursuant to Section 6428.1.~~

20 (4) ~~A proposed determination of the cost savings. The proposed~~
21 ~~determination shall be consistent with the requirements of Section~~
22 ~~6429.~~

23 (d) ~~The information submitted pursuant to paragraphs (1) to (4),~~
24 ~~inclusive, of subdivision (c) shall be used by the department for~~
25 ~~advisory purposes only. Final determinations regarding a reefing~~
26 ~~plan, a management plan, net environmental benefit of the proposed~~
27 ~~conversion, cost savings resulting from the conversion, and all~~
28 ~~other determinations shall be made solely by the department based~~
29 ~~on its independent review and judgment.~~

30 (e) ~~If the department fails to make a final determination within~~
31 ~~the time periods set forth in paragraph (1) of subdivision (a) of~~
32 ~~Section 21100.2 of the Public Resources Code, the department~~
33 ~~shall remove the application from the accelerated program and the~~
34 ~~application shall be considered by the department on a~~
35 ~~nonaccelerated schedule. The applicant shall be required to make~~
36 ~~applicable payments as provided in Section 6427.1, in lieu of~~
37 ~~payments as required in subdivision (g).~~

38 (f) ~~If the department makes a final determination that the~~
39 ~~proposed project meets all of the requirements of this section and~~
40 ~~this article, the department and the applicant may enter into an~~

1 agreement which shall enroll the facility in the accelerated program
2 and require the applicant to perform the decommissioning and
3 conversion of the facility in accordance with a reefing plan
4 approved by the department. The department shall not take title
5 to the artificial reef or take responsibility for implementation of
6 the management plan until decommissioning and conversion of
7 the reef have been completed and all the conditions of Section
8 6427.5 have been met.

9 (g) Upon execution of an agreement by the department and the
10 applicant pursuant to subdivision (f), the applicant shall apportion
11 and directly transmit 50 percent of the cost savings, as determined
12 pursuant to Section 6429, to the following in the following
13 amounts:

14 (1) Eighty-five percent shall be deposited into the California
15 Endowment for Marine Preservation established pursuant to
16 Division 37 (commencing with Section 71500) of the Public
17 Resources Code.

18 (2) Five percent shall be deposited with the board of supervisors
19 of the county immediately adjacent to the location of the facility
20 prior to its decommissioning. The amount paid to the county shall
21 be managed pursuant to the provisions of paragraph (1) of
22 subdivision (d) of Section 6817 of the Public Resources Code.

23 (3) Ten percent shall be deposited into the General Fund.

24 (h) If the department and the applicant enter into an agreement
25 and the applicant pays funds to the department for deposit into the
26 General Fund pursuant to subdivision (g), and that agreement or
27 any required federal, state, or local permit or approval is challenged
28 in court and found to be invalid or unenforceable for any reason,
29 or is rejected, rescinded, or withdrawn for any reason, the state
30 shall return those funds to the applicant within 90 days and the
31 application shall be considered by the department on a
32 nonaccelerated schedule.

33 (i) The applicant shall provide sufficient funds to the department
34 for the cost of enrolling the facility in the accelerated program, as
35 determined by the department, including the costs of reviewing
36 and approving the application and determining whether the
37 proposed project meets the requirements of this section, this article,
38 and all other applicable laws.

1 ~~(j) This section shall remain in effect only until January 1, 2014,~~
2 ~~and as of that date is repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2014, deletes or extends that date.~~

4 SEC. 4. Division 37 (commencing with Section 71500) is added
5 to the Public Resources Code, to read:

6
7 DIVISION 37. CALIFORNIA ENDOWMENT FOR MARINE
8 PRESERVATION

9
10 CHAPTER 1. FINDINGS AND DECLARATIONS

11
12 71500. (a) The Legislature hereby finds and declares all of the
13 following:

14 (1) The Pacific Ocean and its rich marine living resources are
15 of great environmental, economic, aesthetic, recreational,
16 educational, scientific, social, cultural, and historic importance to
17 the people of California.

18 (2) *California's marine living resources depend on a healthy*
19 *marine environment, which comprises open coastal waters as well*
20 *as coastal estuaries, wetlands, rivers and streams, and lands within*
21 *the coastal zone.*

22 (2)
23 (3) Programs to conserve, protect, restore, and enhance the
24 marine-fishery resources of the state are needed because of past
25 overfishing and ~~damage to coastal pollution that have damaged~~
26 marine habitats and their ecosystems. These programs should be
27 coordinated with efforts to reduce overfishing and ~~damage to~~
28 *coastal pollution that damage* marine habitats and their ecosystems.

29 ~~(3) A program that will speed up the decommissioning of~~
30 ~~offshore oil platforms will enhance the environmental, aesthetic,~~
31 ~~and recreational features of the coastal environment. Any offshore~~
32 ~~oil platforms that are nearing possible retirement should be~~
33 ~~removed as quickly as possible to improve the aesthetic character~~
34 ~~of the areas of the California coast that have been adversely~~
35 ~~impacted by offshore oil activities.~~

36 (4) The State of California recognizes the need to formulate its
37 ~~environmental and coastal and ocean~~ resource management
38 policies based on the best available scientific information and
39 should utilize the University of California, the California State
40 University, other institutions of higher learning, and marine science

1 research institutions to the ~~fullest extent possible~~ *extent feasible*
2 to assist it in achieving that goal.

3 (5) *The California Ocean Resources Management Act of 1990*
4 *is designed to ensure that the state's ocean resources are managed,*
5 *conserved, and enhanced in a comprehensive and coordinated*
6 *manner. The California Ocean Protection Act furthered that*
7 *mission by establishing the Ocean Protection Council, whose duties*
8 *include coordination of state activities to protect coastal waters*
9 *and ocean ecosystems, establishment of a science advisory team*
10 *of distinguished scientists from a range of disciplines related to*
11 *coastal and ocean resources, and contracting with the California*
12 *Ocean Science Trust and other academic and nonprofit*
13 *organizations to carry out scientific and educational activities*
14 *consistent with that act.*

15 (6) *The ability of the state to carry out the mission of the*
16 *California Ocean Protection Act is constrained by the availability*
17 *of funds appropriated in the state budget.*

18 (7) *It is in the interest of the people of the state to establish an*
19 *endowment, which would be independent of the state's budget*
20 *process and would impose no cost on the General Fund of the*
21 *state, to provide a stable and ongoing source of funding in*
22 *perpetuity to conserve, protect, restore, and enhance the marine*
23 *resources of the state in a manner that is consistent with the*
24 *California Ocean Protection Act.*

25 26 CHAPTER 2. DEFINITIONS

27
28 71520. Unless the context requires otherwise, the following
29 definitions govern the construction of this division:

30 (a) ~~“Artificial reef” means manmade or natural objects~~
31 ~~intentionally placed or allowed to remain in place in selected areas~~
32 ~~of the marine environment to duplicate those conditions that induce~~
33 ~~production of fish and invertebrates on natural reefs and rough~~
34 ~~bottoms, support additional biomass, enhance biodiversity, and~~
35 ~~stimulate the growth of kelp or other midwater plant life that~~
36 ~~creates natural habitat for those species.~~

37 (b)
38 (a) “Board” or “endowment board” means the Board of
39 Directors of the California Endowment for Marine Preservation.

1 ~~(e) “Cost savings” are the difference between the estimated cost~~
2 ~~to the operator or owner of complete removal of an offshore oil~~
3 ~~platform or production facility and the costs incurred by the~~
4 ~~operator or owner of converting a platform or facility into an~~
5 ~~artificial reef.~~

6 ~~(d)~~

7 ~~(b) “Endowment” means the California Endowment for Marine~~
8 ~~Preservation.~~

9 ~~(e) “National Fishing Enhancement Act of 1984” means Title~~
10 ~~II of Public Law 98-623.~~

11 ~~(f) “Offshore oil platform or production facility” means~~
12 ~~platforms, piers, and artificial islands located seaward of mean~~
13 ~~lower low water, used for oil and gas exploration, development,~~
14 ~~production, processing, or storage.~~

15 ~~(g) “Oil” means any kind of petroleum, liquid hydrocarbons,~~
16 ~~natural gas, or petroleum products or any fraction or residues~~
17 ~~therefrom.~~

18 ~~(c) “Exclusive economic zone (EEZ)” means the zone as~~
19 ~~measured from the mean high tide line seaward to 200 nautical~~
20 ~~miles as set forth in the Presidential Proclamation 5030 of March~~
21 ~~10, 1983, in which the United States proclaimed jurisdiction over~~
22 ~~the resources of the ocean within 200 miles of the coastline.~~

23 ~~(h)~~

24 ~~(d) “Open coastal marine resource” means those marine~~
25 ~~resources that use open coastal waters as their habitat.~~

26 ~~(i)~~

27 ~~(e) “Open coastal waters” means the area composed of the~~
28 ~~submerged lands of the state that are below the mean lower low~~
29 ~~water extending seaward to the boundaries of the Exclusive~~
30 ~~Economic Zone.~~

31 ~~(j) “Reef materials” includes only materials allowed under the~~
32 ~~National Artificial Reef Plan, adopted under the National Fishing~~
33 ~~Enhancement Act of 1984 for construction of artificial reefs.~~

34 ~~(k) “State waters” means waters within the seaward boundary~~
35 ~~of the state as identified in Section 2 of Article III of the California~~
36 ~~Constitution.~~

CHAPTER 3. ESTABLISHMENT AND GOVERNANCE

71530. The California Endowment for Marine Preservation is hereby established. The endowment is subject to this division and to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code). If there is a conflict between this division and the Nonprofit Public Benefit Corporation Law, this division shall prevail.

~~71531. (a) Nothing in this division is intended, and it shall not be construed, to limit or affect the authority or duties of any state or local agency, including, but not limited to, the State Lands Commission and the California Coastal Commission.~~

~~(b) Nothing in this division shall be construed to do any of the following:~~

~~(1) Relieve the prior owner or operator of an oil facility from any continuing liability under any of the following, if the liability is associated with seepage or release of oil from an oil facility that was decommissioned pursuant to an order of, or any action taken by, and in accordance with, any applicable rule or regulation of any federal or state agency:~~

~~(A) Any state statute or regulation regarding liability for the spilling of oil.~~

~~(B) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701 et seq.).~~

~~(C) Any other provision of law.~~

~~(2) Establish any new liability on the part of the state.~~

~~(3) Require, authorize, or in any way encourage any agency with jurisdiction to approve the reefing, in whole or in part, of an oil platform.~~

~~(4) Promote, encourage, or facilitate offshore oil exploration, development, and production within California's open coastal waters.~~

~~(5) Require the United States Department of the Interior's Minerals Management Service or the State Lands Commission to modify, amend, or alter an existing oil and gas lease to approve the reefing of an oil platform in place.~~

~~(6) Alter any existing law that establishes liability for damages arising with respect to artificial reefs or reef materials, including, but not limited to, components of decommissioned oil facilities.~~

1 ~~(7) Alter any existing law or policy that protects or otherwise~~
2 ~~favors natural reefs.~~

3 ~~(8) Promote or encourage any particular method of~~
4 ~~decommissioning.~~

5 ~~(e) Any decommissioning of an offshore oil platform or~~
6 ~~production facility for use as an artificial reef shall not be used or~~
7 ~~counted as mitigation for any environmental impacts or natural~~
8 ~~resources damages.~~

10 ~~CHAPTER 4. BOARD OF DIRECTORS~~

11
12 ~~71540. The endowment is governed by the Board of Directors~~
13 ~~of the California Endowment for Marine Preservation. The board~~
14 ~~consists of nine members appointed by the Governor as follows:~~

15 ~~(a) One member who shall be an expert in marine science from~~
16 ~~the University of California, the California State University, or~~
17 ~~other accredited university.~~

18 ~~(b) One member who shall be an expert in marine fisheries from~~
19 ~~the University of California, the California State University, or~~
20 ~~other accredited university.~~

21 ~~(c) One member who shall be from a nonprofit, public interest~~
22 ~~organization with emphasis on marine conservation.~~

23 ~~(d) One member who shall be from a nonprofit public interest~~
24 ~~organization with an emphasis on marine conservation and~~
25 ~~sustainable consumptive recreational activities.~~

26 ~~(e) One member who shall be from a nonprofit public interest~~
27 ~~organization with an emphasis on marine conservation and~~
28 ~~sustainable nonconsumptive recreational activities.~~

29 ~~(f) The Secretary of the Natural Resources Agency, or his or~~
30 ~~her designee, who shall also serve as chairperson.~~

31 ~~(g) One person who is serving as an elected local government~~
32 ~~official for a local governmental agency with jurisdiction over, or~~
33 ~~directly adjacent to, open coastal waters containing oil platforms~~
34 ~~or production facilities.~~

35 ~~(h) Two representatives of the public.~~

36 ~~71541. The term of office of each member of the board is six~~
37 ~~years. However, the term of office for the first board member~~
38 ~~appointed pursuant to subdivisions (a), (b), and (c) of Section~~
39 ~~71540 is two years. The term of office for the first board members~~

1 appointed pursuant to subdivisions (f) and (g) of Section 71540 is
2 four years.

3 71531. *The endowment is governed by the Board of Directors*
4 *of the California Endowment for Marine Preservation, consisting*
5 *of the following members:*

6 (a) *The three voting nonpublic members of the Ocean Protection*
7 *Council established pursuant to Section 35600.*

8 (b) *Two members of the public appointed by the Governor.*

9 (c) *One member, appointed by the Speaker of the Assembly,*
10 *who shall be an expert in marine science from the University of*
11 *California, the California State University, or other accredited*
12 *university.*

13 (d) *One member, appointed by the Speaker of the Assembly,*
14 *who shall be from a nonprofit, public interest organization with*
15 *emphasis on marine conservation.*

16 (e) *One member, appointed by the Senate Committee on Rules,*
17 *who shall be an expert in marine fisheries from the University of*
18 *California, the California State University, or other accredited*
19 *university.*

20 (f) *One member, appointed by the Senate Committee on Rules,*
21 *who shall be from a nonprofit public interest organization with*
22 *an emphasis on marine conservation and sustainable consumptive*
23 *recreational activities.*

24 71532. *The term of office of each member of the board*
25 *appointed pursuant to subdivisions (b) to (e), inclusive, of Section*
26 *71531 is six years. However, the term of office for the first board*
27 *member appointed pursuant to subdivisions (b) and (c) of Section*
28 *71531 is three years.*

29 ~~71542.~~

30 71533. Any vacancy on the board shall be filled by the
31 Governor by appointment for the unexpired term.

32 ~~71543.~~

33 71534. (a) The board shall conduct its initial meeting as soon
34 as possible after incorporation.

35 (b) The board shall meet as often as required, but at least twice
36 per year.

37 (c) Members of the board shall attend at least 50 percent of all
38 duly convened meetings of the board in a calendar year. A member
39 who fails to attend at least 50 percent of all duly convened meetings

1 of the board in a calendar year forfeits membership on the board.
2 The vacancy shall be filled pursuant to Section 71542.

3 (d) Members of the board shall receive no salary but shall be
4 paid one hundred dollars (\$100) per day for each meeting and shall
5 be reimbursed for all necessary travel expenses.

6 (e) *The Ocean Protection Council shall provide staff services*
7 *that the endowment board needs to carry out its duties pursuant*
8 *to this division.*

10 CHAPTER 5. POWERS AND DUTIES

11
12 71550. The members of the board first appointed shall serve
13 as incorporators of the endowment and shall take whatever actions
14 are necessary to establish the endowment pursuant to the Nonprofit
15 Public Benefit Corporation Law (Part 2 (commencing with Section
16 5110) of Division 2 of Title 1 of the Corporations Code) once a
17 majority of the board is appointed.

18 ~~71551. It is the intent of the Legislature that the endowment~~
19 ~~not be incorporated until funds are made available pursuant to the~~
20 ~~California Marine Legacy Act (Article 2 (commencing with Section~~
21 ~~6420) of Chapter 5 of Part 1 of Division 6 of the Fish and Game~~
22 ~~Code).~~

23 ~~71552. (a) The purpose of the endowment is to create a~~
24 ~~permanent source of funding for projects that will conserve, protect,~~
25 ~~restore, and enhance the open coastal marine resources of the state.~~
26 ~~To achieve this objective, the endowment board may allocate~~
27 ~~funding to do any or all of the following:~~

28 ~~(1) Support applied research into open coastal marine fisheries,~~
29 ~~marine habitat, or other related research in support of projects to~~

30 71551. *The California Endowment for Marine Preservation*
31 *shall receive funds generated pursuant to the California Marine*
32 *Legacy Act (Article 2 (commencing with Section 6420) of Chapter*
33 *5 of Part 1 of Division 6 of the Fish and Game Code). It is the*
34 *intent of the Legislature that the endowment not be incorporated*
35 *until the endowment board has been notified for the first time by*
36 *the Department of Fish and Game, pursuant to Section 6427.1 of*
37 *the Fish and Game Code.*

38 71552. (a) *The purpose of the endowment is to create a*
39 *permanent source of funding for projects that will conserve,*
40 *protect, restore, and enhance the coastal and marine resources of*

1 *the state, with an emphasis on open coastal marine resources. To*
2 *achieve this objective, the endowment board may allocate funding*
3 *to support any or all of the following activities:*

4 (1) *Applied research into open coastal marine fisheries, marine*
5 *habitat, or other related research, including, but not limited to,*
6 *monitoring and data collection, in support of projects to conserve,*
7 *protect, restore, and enhance the open coastal marine resources of*
8 *the state. In so doing, the board shall endeavor to take maximum*
9 *advantage of the scientific research expertise available from the*
10 *University of California, the California State University, other*
11 *institutions of higher learning, and marine science research*
12 *institutions with expertise in marine resource issues. Funding for*
13 *research projects shall not exceed 10 percent of the overall funding*
14 *in any fiscal year.*

15 (2) ~~Support projects~~ *Projects in open coastal waters that enhance*
16 *environmentally sustainable marine activities.*

17 (3) ~~Support projects~~ *Projects in open coastal waters to enhance*
18 *the habitat for open coastal marine life.*

19 (4) ~~Support programs~~ *Programs in open coastal waters that lead*
20 *to enforcement of laws regulating the take of open coastal marine*
21 *species, the protection of habitat, and the protection and monitoring*
22 *of open coastal marine species and habitat with an emphasis on*
23 *innovative approaches.*

24 (5) ~~Support programs~~ *Programs to aid in the establishment of*
25 *safe sustainable fishing levels and reduce or prevent habitat*
26 *damage in open coastal waters.*

27 (6) ~~Support programs~~ *Programs to monitor catch and bycatch*
28 *and to reduce bycatch in fisheries managed by the State of*
29 *California and by the United States.*

30 (7) *Programs, projects, and activities that are directly related*
31 *to the conservation, protection, restoration, and enhancement of*
32 *coastal and marine resources of the state, with an emphasis on*
33 *open coastal marine resources, and that are authorized by either*
34 *paragraph (2) of subdivision (b) of Section 35650 or by Section*
35 *75060.*

36 (b) *Funds provided by the endowment are not intended, and*
37 *shall not be used, to supplant funding provided through the annual*
38 *budget process to support existing obligations and activities related*
39 *to coastal and marine resources.*

40 (b)

1 (c) The endowment board may also do all of the following:

2 (1) Obtain grants from, and contract with, individuals and with
3 private, local, state, and federal agencies, organizations, and
4 institutions.

5 (2) Contract with, or make grants to, conservation and
6 educational organizations; marine institutes; aquariums and
7 museums; institutions of higher education; and local, state, and
8 federal agencies *to carry out the purposes of the endowment*.

9 (3) Loan funds to private, local, state, and federal agencies,
10 organizations, and institutions *to carry out the purposes of the*
11 *endowment*.

12 ~~(e)~~

13 (d) The endowment shall create a business plan for a five-year
14 period. The endowment shall update the plan annually.

15 ~~(d)~~

16 (e) On or before February 1 each year, the endowment shall
17 submit a report to the appropriate fiscal and policy committees of
18 the Legislature for the preceding fiscal year. The report shall
19 include all of the following:

20 (1) The updated business plan created pursuant to subdivision
21 (c).

22 (2) A comprehensive and detailed report of the endowment's
23 operations, activities, financial condition, and accomplishments
24 under this section.

25 (3) A listing of each recipient of a grant from the endowment
26 and the purposes and amount of that grant.

27 (4) A listing of any loan that the endowment has received and
28 the plan for repaying the loan.

29 (5) A report of each independent audit required pursuant to
30 subdivision (e) of Section 71560.

31 71553. Members of the board and appropriate staff shall be
32 available to testify before appropriate committees of the
33 Legislature.

34 71554. The endowment shall not contribute to, or otherwise
35 support, any political party, candidate for elective public office,
36 or ballot measure.

37 71555. The endowment may hire employees and may obtain
38 legal counsel. No employee of the endowment is an employee of
39 the State of California. No employee of the endowment is subject
40 to Chapter 10.3 (commencing with Section 3512) of, or Chapter

1 10.5 (commencing with Section 3525) of, Division 4 of Title 1 of
2 the Government Code. Employees of the endowment have the
3 right to representation consistent with the federal National Labor
4 Relations Act (29 U.S.C. Sec. 151 et seq.).

5 71556. The endowment shall coordinate its activities with the
6 Department of Fish and Game, the California Coastal Commission,
7 the San Francisco Bay Conservation and Development
8 Commission, the State Lands Commission, and appropriate federal
9 agencies, including the National Marine Fisheries Service and the
10 Minerals Management Service of the United States Department
11 of the Interior. Nothing in this division limits the authority and
12 responsibility of any of these agencies.

13
14 CHAPTER 6. FINANCIAL TRANSACTIONS AND AUDITS
15

16 71560. (a) The endowment may receive charitable
17 contributions or any sources of income that may be lawfully
18 received, including loans from the state.

19 (b) The endowment shall administer any funds it receives in
20 accordance with this division.

21 (c) ~~The~~ (1) *Except as provided in paragraph (2), the endowment*
22 *shall invest and manage any funds it receives so that the*
23 *investments shall provide a source of income in perpetuity and the*
24 *principal amount consisting of charitable contributions and*
25 *donations, including cost savings donated pursuant to Sections*
26 ~~6427.1 and 6429.5~~ *Section 6427.3 of the Fish and Game Code,*
27 *shall not be spent. Any returns on investments made by the*
28 *endowment are the only funds that shall be available for*
29 *expenditure by the endowment.*

30 (2) *Ten percent of any funds received by the endowment*
31 *pursuant to Section 6427.3 of the Fish and Game Code in a*
32 *calendar year shall be allocated by the endowment board, pursuant*
33 *to Section 71552, to qualified state agencies within 24 months of*
34 *receipt of the funds.*

35 (d) The endowment shall invest and manage any funds it
36 receives in accordance with the Nonprofit Public Benefit
37 Corporation Law (Part 2 (commencing with Section 5110) of
38 Division 2 of Title 1 of the Corporations Code).

1 (e) The accounts of the endowment shall be audited annually
2 in accordance with generally accepted auditing standards by
3 independent certified public accountants.

4 (f) The financial transactions of the endowment for any fiscal
5 year may be audited by the Bureau of State Audits. A report of
6 each audit completed pursuant to this subdivision shall be made
7 to the Legislature and the Governor.

8 (g) Each recipient of assistance by grant, contract, or loan
9 pursuant to this division shall keep records reasonably necessary
10 to disclose fully the amount of the assistance, the disposition of
11 the assistance, the total cost of the project or undertaking in
12 connection with which the assistance is given or used, the amount
13 and nature of that portion of the cost of the project or undertaking
14 supplied by other sources, and other records that will facilitate an
15 effective audit. Each recipient of a fixed price contract awarded
16 pursuant to competitive bidding procedures is exempt from the
17 requirements of this subdivision.

18 (h) The endowment, or its authorized representative, and the
19 Bureau of State Audits shall have access to any records necessary
20 for the purpose of auditing and examining all funds received or
21 expended by the recipients of assistance.

22 71561. The endowment funds shall be administered and
23 managed in accordance with all of the following:

24 (a) Reasonably prudent investor standards that will give the
25 fund the capacity to achieve reasonable rates of return on
26 investment similar to those of other prudent investors for long-term
27 investments.

28 (b) Use of generally accepted accounting practices, and
29 expenditure and investing procedures.

30 (c) Investment policies that are consistent with the Uniform
31 Prudent Investor Act (Article 2.5 (commencing with Section
32 16045) of Chapter 1 of Part 4 of Division 9 of the Probate Code),
33 and with the Uniform Management of Institutional Funds Act (Part
34 7 (commencing with Section 18501) of Division 9 of the Probate
35 Code), as applicable.

36 71562. Funds held by the endowment shall revert to the state
37 or to another public agency or nonprofit organization approved by
38 the state if the endowment does any of the following:

39 (a) Ceases operations.

40 (b) Is dissolved.

- 1 (c) Becomes bankrupt or insolvent.
- 2 (d) Fails to perform its fiduciary duties.

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